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Director & State Health Officer

State of California—Health and Human Services Agency
California Department of Public Health

DRINKING WATER FIELD OPERATIONS BRANCH

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EDMUND G. BROWN JR.
Governor

January 6, 2014

Water System No. 4901326

Barbara and Kerry Weldy
Spooner's Resort
P.O. Box 2127
Guerneville, CA 95446

**CITATION NO. 02-18-13C-067 FOR OPERATING A PUBLIC WATER SYSTEM
WITHOUT A PERMIT**

Enclosed is Citation No. 02-18-13C-067 (Citation) issued to Barbara and Kerry Weldy, owners of the Spooner's Resort water system (System). The Citation includes a daily administrative penalty which will be assessed for failure to comply with the Citation. As of the day of this letter, the penalty is \$25,800. Please note that the Department will consider suspending the System's obligation to pay the penalties if the System complies with specific directives in the citation by the specified due dates.

If you have any questions regarding this matter, please contact Cindi Lee of my staff at (707) 576-2422 or me at (707) 576-2006.

Sincerely,

Janice M. Thomas, P.E.
Sonoma District Engineer
Drinking Water Field Operations Branch

Enclosure

- C Rick Fulwider/14150 Old Cazadero Road-Space 24, Guerneville, CA 95446
(w/enclosure)
- Ron Kingsford/CDHCD (w/enclosure)
- Mark Franceschi, Sonoma County PRMD/Code Enforcement (w/enclosure)
- Denise Ward, Sonoma County PRMD/Code Enforcement (w/enclosure)

4901326/Compliance
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STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC HEALTH

Name of Public Water System: Spooner's Resort

Water System No: 4901326

To: Barbara and Kerry Weldy
Spooner's Resort
P.O. Box 2127
Guerneville, CA 95446

Issued: January 6, 2014

CITATION FOR NONCOMPLIANCE

**OPERATING A PUBLIC WATER SYSTEM WITHOUT A PERMIT AND
FAILURE TO COMPLY WITH CITATION NO. 02-18-13C-032**

Section 116650 of the California Health and Safety Code (CHSC), authorizes the issuance of a citation for failure to comply with a requirement of the California Safe Drinking Water Act (CHSC, Division 104, Part 12, Chapter 4, commencing with Section 116270), or any regulation, standard, permit or order issued or adopted thereunder.

The Division of Drinking Water and Environmental Management of the California Department of Public Health (Department) hereby issues a



1 citation to Barbara and Kerry Weldy for failure to comply with Title 22,
2 California Code of Regulations (CCR) Section 64001 and CHSC, Section
3 116525(a) and with directives contained within Citation Number 02-18-13C-
4 032.
5

6 APPLICABLE AUTHORITIES

7

8 Section 116650 of the CHSC states in relevant part:

- 9
- 10 (a) If the department determines that a public water system is in violation of this
11 chapter or any regulation, permit, standard, citation, or order issued or adopted
12 thereunder, the department may issue a citation to the public water system. The
13 citation shall be served upon the public water system personally or by certified
14 mail. Service shall be deemed effective as of the date of personal service or the
15 date of receipt of the certified mail. If a person to whom a citation is directed
16 refuses to accept delivery of the certified mail, the date of service shall be
17 deemed to be the date of mailing.
- 18 (b) Each citation shall be in writing and shall describe the nature of the violation or
19 violations, including a reference to the statutory provision, standard, order,
20 citation, permit, or regulation alleged to have been violated.
- 21 (c) A citation may specify a date for elimination or correction of the condition
22 constituting the violation.
- 23 (d) A citation may include the assessment of a penalty as specified in subdivision
24 (e).
- 25 (e) The department may assess a penalty in an amount not to exceed one thousand
26 dollars (\$1,000) per day for each day that a violation occurred, and for each day
27 that a violation continues to occur. A separate penalty may be assessed for
each violation.



1 (e) The department may assess a penalty in an amount not to
2 exceed one thousand dollars (\$1,000) per day for each day that a
3 violation occurred, and for each day that a violation continues to
4 occur. A separate penalty may be assessed for each violation.

5
6 California Health and Safety Code, Section 116525(a) states in relevant
7 part:

8 No person shall operate a public water system unless he or she first submits an application
9 to the department and receives a permit as provided in this chapter.

10 California Health and Safety Code, Section 116275 (h) states in relevant
11 part:

12 "Public water system" means a system for the provision of water for
13 human consumption through pipes or other constructed conveyances
14 that has 15 or more service connections or regularly serves at least
25 individuals daily at least 60 days out of the year.

15 California Code of Regulations (CCR), Section 64001 states in relevant part:

16 A public water system shall submit an application for a permit or
17 amended permit pursuant to section 116525 or section 116550,
18 Health and Safety Code, respectively.

19 STATEMENT OF FACTS

20
21 Barbara and Kerry Weldy are the owners of Spooner's Resort (hereinafter
22 System) which is located at 14150 Old Cazadero Road, Guerneville,
23 California, serving at least 25 people at least six months of the year and,
24 therefore, meets the definition of a nontransient-noncommunity water
25 system.
26
27



1 **The First Citation includes Directive 1:**

2 *"Comply with CCR, Section 64001 and CHSC, Section 116525 in the*
3 *future."*
4

5 As of the date of this Citation, the System continues to operate a public
6 water system without a permit. This is a violation of Directive 1 of the First
7 Citation.
8

9
10 **The First Citation includes Directive 2:**

11 *"Submit all overdue permit application items no later than **August 30,***
12 ***2013.** The overdue items are noted on the enclosed Water Supply*
13 *Permit Application Requirements checklist."*
14

15 As more fully described in the following paragraphs, as of the date of this
16 Citation, a complete permit application has not been submitted by the
17 System to the Department and no documentation has been provided to the
18 Department demonstrating that the System has reconnected to Sweetwater
19 Springs public water system or has otherwise ceased to operate a public
20 water system. The System is therefore in violation of Directive 2 of the First
21 Citation.
22

23
24
25 On-site manager Rick Fulwider contacted the Department on July 31, 2013
26 to arrange a consultation with Department staff. Messrs. Weldy and
27 Fulwider agreed to an August 7, 2013 consultation meeting with Department
 staff regarding the overdue permit application items. Neither Mr. Fulwider



1 nor Mr. Weldy nor any other representative of the System attended the
2 consultation meeting.
3

4
5 On August 21, 2013 Department staff met with Messrs. Weldy and Fulwider
6 to discuss the overdue permit items and to confirm that the System met the
7 definition of a public water system.
8

9
10 On September 17, 2013 Department staff conducted a site inspection of the
11 System. Department staff met with Mr. Fulwider and observed that some of
12 the service connections had been capped and there appeared to be 14
13 active connections including two on-site rental buildings. Department staff
14 determined from observations of the System that the System had more than
15 25 of the same persons on-site over six months per year and, therefore, met
16 the definition of a nontransient-noncommunity public water system and
17 informed Mr. Fulwider of the System's need to obtain a water supply permit
18 from the Department. Mr. Fulwider also informed Department staff that the
19 System had at one time been a customer of Sweetwater Springs CWD –
20 Guerneville (Sweetwater Springs), a local community public water system,
21 but had disconnected from Sweetwater Springs and constructed a drinking
22 water well for use by the System.
23
24

25
26 On September 25, 2013 Mr. Fulwider notified the Department that the
27 System wanted to be regulated by the Department. Mr. Fulwider agreed to
a consultation with Department staff regarding the permit application.



1
2
3 Department staff independently researched the cost of the System
4 reconnecting to Sweetwater Springs and using the existing well for
5 nonpotable uses as an alternative to becoming a regulated water system.
6 Sweetwater Springs informed the Department that the System would need
7 to pay reconnection fees and install a backflow prevention device in order to
8 reconnect to Sweetwater Springs.
9

10
11 On October 9, 2013 Department staff met with Messrs. Weldy and Fulwider.
12 Department staff advised Messrs. Weldy and Fulwider that reconnecting to
13 Sweetwater Springs would likely be less expensive than the cost to operate
14 and maintain a public water system in compliance with applicable laws and
15 regulations. Staff provided Mr. Fulwider a written summary of the findings.
16 Staff also gave Messrs. Weldy and Fulwider an oral due date of October 31,
17 2013 to either provide the Department evidence that the System was
18 actively pursuing a reconnection with Sweetwater Springs or submit a
19 complete permit application to the Department.
20
21

22 No further communication has been received from the System since the
23 October 9, 2013 meeting. Sweetwater Springs, in early November 2013,
24 informed the Department that Sweetwater Springs had been contacted by
25 System personnel after the October 9, 2013 meeting and that Sweetwater
26 Springs had referred System personnel to a backflow device installation
27 company for the installation of the backflow device prior to October 31,



1 2013. Department staff contacted the backflow device installation company
2 who stated that they had not been contacted by the System. Department
3 staff attempted to contact Messrs. Weldy and Fulwider several times without
4 success.
5

6 7 **DETERMINATIONS**

8 9 **THE DEPARTMENT HAS DETERMINED:**

- 10
- 11 1. The System is in violation of CCR, Title 22, Section 64001 and
12 CHSC, Section 116525 in that the System is operating a water
13 system without a water supply permit.
 - 14 2. The System has failed to comply with the directives of Citation No.
15 02-18-13C-032.
16

17 18 **PENALTIES PURSUANT TO HEALTH AND SAFETY CODE SECTION** 19 **116650**

20 The Department hereby assesses upon the System: (1) a penalty of two
21 hundred dollars (\$200) per day for each day beyond August 30, 2013 that
22 the System failed or fails to submit a permit application to the Department
23 as required by Directive 2 of Citation No. 02-18-13C-032.
24

25
26 As of January 6, 2014 the total amount of penalties assessed under this
27 citation is \$25,800 (the Penalty); the Penalty will continue to accrue as
described above.



DIRECTIVES

The System is hereby directed to take the following actions:

1. Comply with CCR, Section 64001 of Title 22 and CHSC, Section 116525 in the future.
2. Submit to the Department for review and approval by February 10, 2014 either the water supply permit application items provided with Citation No. 02-18-13C-032 or provide evidence that the System has secured a connection with a permitted public water system and no longer meets the definition of a public water system.
3. Upon issuance of this Citation, the System is directed to pay the Penalty within ten (10) days of receipt of this Citation, and thereafter every thirty (30) days. Payment shall be made by check made payable to California Department of Public Health Safe Drinking Water Account, together with a copy of the first page of this Citation, and with the number of the Citation written on the check at the following address:

Department of Public Health
Drinking Water Program – Fee Billing Unit
P.O. Box 997379, MS 7406
Sacramento, CA 95899-7379
Attn: Ms. Perin Peebles.

However, the requirement to pay the penalty shall be suspended until February 10, 2014, and said suspension may continue beyond



1 February 10, 2014, provided that the Department determines that the
2
3 System is in compliance with Directives 1 and 2 of this Citation.
4

5 All documents required by this citation with the exception of documents as
6 described in Directive 3 relating to the payment of the Penalty shall be
7 submitted to the Department at the following address:
8

9 Janice M. Thomas, P.E.
10 Department of Public Health
11 Drinking Water Field Operations Branch
12 50 D Street, Suite 200
13 Santa Rosa, CA 95404

14 The Department reserves the right to make such modifications to this
15 Citation as it may deem necessary to protect public health and safety. Such
16 modifications may be issued as amendments to this Citation and shall be
17 effective upon issuance.
18

19 Nothing in this Citation relieves the System of its obligation to meet the
20 requirements of the California Safe Drinking Water Act (CHSC, Division
21 104, Part 12, Chapter 4, commencing with Section 116270), or any
22 regulation, standard, permit or order issued thereunder.
23

24 **PARTIES BOUND**

25 This Citation shall apply to and be binding upon the System, its owners,
26 officers, directors, agents, employees, contractors, successors, and
27 assignees.



SEVERABILITY

The directives of this Citation are severable, and the System shall comply with each and every provision thereof notwithstanding the effectiveness of any provision.

FURTHER ENFORCEMENT ACTION

Division 104, Part 12, Chapter 4, (commencing with Section 116270) of the California Health and Safety Code authorizes the Department to: issue additional citations with assessment of penalties if the System continues to fail to correct a violation identified in a citation; take action to suspend or revoke a permit that has been issued to a public water system if the System has violated applicable law or regulations or has failed to comply with orders of the Department; and petition the superior court to take various enforcement measures against a public water system that has failed to comply with orders of the Department. The Department does not waive any further enforcement action by issuance of this citation.



Stefan Cajina, P.E., Chief
North Coastal Section
Drinking Water Program



Date

Certified Mail No. 7012 2210 00021674 0007

